

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUKE D. BRUGNARA,

Defendant.

Case No. 08-CR-00222 WHA

Case No. 14-CR-00306 WHA

**PRELIMINARY ORDER ON
DEFENDANT'S MOTION FOR
RECONSIDERATION OF
DETENTION**

Dkt. Nos. 295/31

Luke Brugnara moves for reconsideration of the Court's detention order in these related cases. The Court heard the motion on June 27, 2014, with Brugnara present and represented by counsel. A detention hearing may be reopened "if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community." 18 U.S.C. § 3142(f).

Case No. 08-CR-00222 WHA
Case No. 14-CR-00306 WHA
ORDER ON MOTION FOR
RECONSIDERATION OF DETENTION

1 Many of the reasons for reconsideration proposed by Brugnara are based on
2 information that was presented to the Court at the prior detention hearings on May 28, 30,
3 and June 11, or was information known to the defense at the time of those hearings. As a
4 result, the Court will not reopen the detention hearing so that Brugnara may reargue:
5 whether he presents an economic danger to the community; his record after his previous
6 release from the Bureau of Prisons; and generally “correcting the record.”

7 There are two new reasons to consider release proposed by Brugnara. First, Brugnara
8 suggests that an additional surety, Donald Pipkins, be considered as a co-signer on a bond.
9 Pipkins, however, was not present at today’s detention hearing so the Court cannot evaluate
10 whether he is an appropriate surety and whether his signature on a bond would have a
11 “material bearing” on the detention or release decision. 18 U.S.C. § 3142(f).

12 Second, Brugnara urges that the “weight of the evidence” has shifted in his favor
13 following an evidentiary hearing before District Court Judge William H. Alsup. *See* 18
14 U.S.C. § 3142(g)(2). The government disagrees with Brugnara’s interpretation of the
15 evidence presented to Judge Alsup. The transcript of the District Court hearing is not yet
16 available, but is expected soon. In order to give both parties an opportunity to present
17 information from the prior hearing without the necessity of repeating the hearing, the Court
18 continued the hearing on the motion for reconsideration until after the hearing transcript is
19 available.


20 Finally, the Court notes that Brugnara, against the advice of his counsel and after
21 being reminded of his right to remain silent, addressed the Court directly in support of his
22 request for relief. The Court did not find this information to be (1) new, (2) material to the
23 release decision, or (3) persuasive that Brugnara is presently amenable to community
24 supervision of any type.

25 //
26
27
28

1 In sum, the Court finds that most of the arguments made in support of Brugnara's
2 motion for reconsideration are not valid reasons to reopen a detention hearing under 18
3 U.S.C. § 3142(f). As to a change in the "weight of the evidence," the Court will continue
4 the motion until after transcripts of the recent evidentiary hearings are available.

5 IT IS SO ORDERED.

6 Date: June 27, 2014


Nathanael M. Cousins
United States Magistrate Judge